

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

IN RE: BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC
MDL No. 2641

This Document Relates to Plaintiff:

Case No. 2:18-CV-04841-DGC

Averil Carnegie,

Plaintiff,

v.

Motion to Substitute Party Plaintiff

C.R. Bard, et al.

Defendants.

MOTION TO SUBSTITUTE PARTY PLAINTIFF

COMES NOW, Plaintiff Averil Carnegie and files this motion to substitute her surviving next of kin, Zeola Brown-Jackson, as the proper plaintiff pursuant to Federal Rule of Civil Procedure 25(a)(1). In support therefore, Plaintiff respectfully shows the court the following:

1. Plaintiff Averil Carnegie filed the present action in the United States District Court of the District of Arizona on December 20, 2018.
2. Plaintiff Averil Carnegie died on October 27, 2019.
3. On December 30, 2019, Plaintiff filed a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a). *See* Doc. No. 21152. Plaintiff's counsel recently learned the death of Ms. Carnegie's after filing the lawsuit and after submitting a Plaintiff Profile Form in connection with this case.
4. Zeola Brown-Jackson, daughter of Averil Carnegie, is the surviving next of kin and the proper party plaintiff to substitute for Plaintiff-decedent Averil Carnegie and has proper capacity to proceed forward with the surviving products liability lawsuit on Plaintiff-decedent's behalf, pursuant to Fed. R. Civ. P. 25(a)(a), stating, "[i]f a party dies and the

claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative."

WHEREFORE, counsel for Plaintiff requests this Court grant this request to substitute Zeola Brown-Jackson as the proper party plaintiff in this action.

Respectfully submitted this 30th day of December, 2019.

/s/ David M. Langevin
Rhett A. McSweeney, #269542
David M. Langevin, #329563
McSweeney/Langevin
2116 Second Avenue South
Minneapolis, MN 55404
Phone: (612) 542-4646
Fax: (612) 454-2678
dave@westrikeback.com
ram@westrikeback.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached document was served upon each attorney of record through the Court's Electronic Court Filing System.

Dated: December 30, 2019

/s/ David M. Langevin
David M. Langevin